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## FAMILY CHILD CARE HOMES

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## FAMILY CHILD CARE HOMES

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This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the California Department of Social Services (CDSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting CDSS programs
- c) Statutes from appropriate Codes which govern CDSS programs; and
- d) Court decisions
- e) Operational standards by which CDSS staff will evaluate performance within CDSS programs.

Regulations of CDSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other department's regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the changes to a new computer system revised language in this manual letter and subsequent community care licensing manual letters will now be identified by graphic screen.

Questions relative to this Users' Manual should be directed to your usual program policy office.

**Article 1. GENERAL REQUIREMENTS AND DEFINITIONS****102351.1 SPECIFIC EXEMPTION****102351.1**

The provisions of Chapter 1, General Requirements, shall not apply to family child care homes.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

**102352 DEFINITIONS****102352**

- a. (1) "Adult" or "Substitute Adult" means a person who is 18 years of age or older.
- (2) "Applicant" means any person or persons making an application for a license to operate a family child care home.
- (3) "Assistant Provider" means a person at least 14 years of age who is primarily involved in caring for children during the hours that the home provides care.
- b. (Reserved)
- c. (1) "Capacity" means the maximum number of children for whom care is authorized at any one time.
- (2) "Child" means a person, including an infant, who has not yet reached his or her eighteenth birthday.
- (3) "Completed Application" means that all required information and documentation has been provided to the Department, including the completed application form and, for a large family child care home, a fire clearance; and that a home visit has been completed.
- d. (1) "Deficiency" means any failure to comply with any provision of the California Child Day Care Act (Health and Safety Code, Section 1596.70 et seq.) and/or regulations adopted by the Department pursuant to the Act.
- (2) "Department" means the State Department of Social Services. This term supersedes the term "Licensing agency" as used in previous regulations.

**102352 DEFINITIONS (Continued)****102352**

- (3) "Director" means the Director of Social Services.
- e. (Reserved)
- f. (1) "Family Day Care" or "Family Child Care" means regularly provided care, protection and supervision of children, in the care giver's own home, for periods of less than 24 hours per day, while the parents or authorized representatives are away. The term "Family Child Care" supersedes the term "Family Day Care" as used in previous regulations.
- (A) "Small Family Child Care Home" means a home that provides family child care for up to six children, or for up to eight children if the criteria in Section 102416.5(b) are met. These capacities include children under age 10 who live in the licensee's home.
- (B) "Large Family Child Care Home" means a home that provides family child care for up to 12 children, or for up to 14 children if the criteria in Section 102416.5(c) are met. These capacities include children under age 10 who live in the licensee's home and the assistant provider's children under age 10.
- g. (Reserved)
- h. (1) "Home" means the licensee's residence as defined by Government Code Section 244.

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Government Code Section 224 states:

In determining the place of residence the following rules shall be observed:

- (a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- (b) There can only be one residence.
- (c) A residence cannot be lost until another is gained.
- (d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.
- (e) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act.

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**HANDBOOK CONTINUES**

**102352 DEFINITIONS (Continued)****102352**

- (f) The residence can be changed only by the union of act and intent.
- (g) A married person shall have the right to retain his or her legal residence in the State of California notwithstanding the legal residence or domicile of his or her spouse.

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- i. (1) "Infant" means a child who has not yet reached his or her second birthday.
- j. (Reserved)
- k. (Reserved)
- l. (1) "License" means a written authorization by the Department or licensing agency to operate a family day care home.
- (2) "Licensee" means an adult licensed to operate a Family Day Care Home and who is primarily involved in providing care for the children during the hours that the home provides care.
- (3) "Licensing agency" See definition for Department.
- m. (Reserved)
- n. (Reserved)
- o. (Reserved)
- p. (1) "Parent" or "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- (2) "Provider" means anyone providing care to children as authorized by these regulations and includes the licensee, assistant provider or substitute adult.
- q. (Reserved)
- r. (1) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

<b>102352</b>	<b>DEFINITIONS (Continued)</b>	<b>102352</b>
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s. (Reserved)

t. (Reserved)

u. (Reserved)

v. (Reserved)

w. (Reserved)

x. (Reserved)

y. (Reserved)

z. (Reserved)

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.74, 1596.75, 1596.77, 1596.770, 1596.78, 1596.791, 1596.81(b), 1597.44, and 1597.465, Health and Safety Code; and Government Code Section 244.

**Article 2. LICENSING****102357 OPERATION WITHOUT A LICENSE****102357**

- (a) If the Department has reason to believe that family child care is being provided without a license, the licensing agency shall:
- (1) Conduct a site visit to:
    - (A) Determine whether the home is operating without a license.
    - (B) Determine whether continued operation of the facility will be dangerous to the health and safety of the children in care.
  - (2) Notify the unlicensed provider in writing of the requirements for such licensure.
  - (3) Issue a Notice of Operation in Violation of Law if it is found and documented that continued operation of the family child care home will be dangerous to the health and safety of the children. Situations endangering the health and safety of the children shall include, but not be limited to:
    - (A) Evidence of physical or mental abuse.
    - (B) Children left unattended or left with a minor.
    - (C) Clear evidence of unsanitary conditions.
    - (D) Fire safety/fire hazards.
    - (E) Unfenced or accessible pools or other bodies of water.
    - (F) Hazardous physical plant.
  - (4) Issue a Notice of Operation in Violation of Law if the unlicensed provider does not apply for a license within 15 working days from the date of notification.

**102357 OPERATION WITHOUT A LICENSE (Continued)****102357**

- (b) The Department shall have the authority to issue an immediate civil penalty pursuant to Section 102393 and Section 1596.891 of the Health and Safety Code which provides:
- (1) A person who violates Section 1596.80 of the Health and Safety Code may be liable for an immediate assessment of civil penalties in the amount of two hundred dollars (\$200) per day.
  - (2) The penalty specified in Section 102357(b)(1) shall be imposed if the operator of an unlicensed facility refuses to seek licensure or the operator seeks licensure and is denied but continues to operate.
- (c) Section 102357 shall be applied pursuant to Section 1596.892 of the Health and Safety Code.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.81(b), 1596.890, 1596.891, 1596.892 and 1597.61, Health and Safety Code.

**102358 LICENSE EXEMPTIONS****102358**

- (a) Licensure is required before family child care is provided except in the following situations relative to family child care homes as specified in Health and Safety Code Section 1596.792:

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Health and Safety Code Section 1596.792 provides in pertinent part:

- (1) Any family day care home providing care for the children of only one family in addition to the operator's own children.
- (2) Any cooperative arrangement between parents for the care of their children where no payment is involved and the arrangement meets all of the following conditions:
  - (A) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible care giver with respect to all the children in the cooperative.
  - (B) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.
  - (C) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of that may not exceed the actual cost of the activity.
  - (D) No more than 12 children are receiving care in the same place at the same time.
- (3) Any arrangement for the receiving and care of children by a relative.
- (4) Any child day care program that operates only one day per week for no more than four hours on that one day.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.792 and 1596.81(b), Health and Safety Code.

<b>102359</b>	<b>ADVERTISEMENTS AND LICENSE NUMBER</b>	<b>102359</b>
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- (a) Licensees shall reveal each facility license number in all advertisements, publications, or announcements made with the intent to attract clients.
- (1) Advertisements, publications, or announcements subject to the requirements of Section 102359(a) include, but are not limited to, those contained in the following:
- (A) Newspaper or magazine.
  - (B) Consumer report.
  - (C) Announcement of intent to commence business.
  - (D) Telephone directory yellow pages.
  - (E) Professional or service directory.
  - (F) Radio or television commercial.
- (b) Correspondence shall be considered a form of advertisement if the intent is to attract clients.

NOTE: Authority cited: Section 1596.81(a), Health and Safety Code. Reference: Section 1596.861, Health and Safety Code.

**Article 3. APPLICATION PROCEDURES****102368 LICENSE****102368**

- (a) The license shall be available in the facility upon request.
- (b) The license shall not be transferred to other individuals or locations.
- (c) Any person 18 years of age or over may apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disabilities, or marital status.
- (d) As a condition of licensure, the licensee shall comply with the requirements for training in preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, as specified in Health and Safety Code Section 1596.866.

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- (1) Health and Safety Code Section 1596.866 provides in part:

- (a) In addition to any other required training... each family day care home licensee who provides care shall have at least 15 hours of training on preventive health practices. The training shall include pediatric cardiopulmonary resuscitation, pediatric first aid, recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries. The training may include training in sanitary food handling, child nutrition, emergency preparedness and evacuation, caring for children with special needs, and identification and reporting of signs and symptoms of child abuse....

- (c) All personnel and licensees described in subdivision (a) shall complete 15 hours of preventive health practices training as described in subdivision (a) on or before January 1, 1995, and completion of the health training shall be a condition of licensure.

- (1) The department shall issue a provisional license for otherwise qualified applicants who are not in compliance with this section. This provisional license shall expire 90 days after the date of issuance and shall not be extended....

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.866, and 1597.57, Health and Safety Code.

**102369 APPLICATION FOR INITIAL LICENSE****102369**

- (a) To apply for a license to operate a family child care home, an applicant shall file a written application with the Department, on forms provided or approved by the Department.
- (b) The applicant shall provide all of the following information at the time of submission of the application:
  - (1) Name, address, telephone number and confirmation that the applicant is 18 years of age or over.
  - (2) Age and number of children to whom care will be provided.
  - (3) Name and age of every person residing in the home where care is to be provided.
  - (4) A statement that the applicant will comply with all regulations and laws governing family child care homes.
  - (5) When applying for a license as a large family child care home, substantiation that the provider has at least one year of experience as a regulated small family child care home operator; or one year of experience as an administrator or director of, or as a teacher at, a licensed child care center.
    - (A) Waiver of this requirement shall be considered by the director upon finding that the applicant has sufficient qualifying experience.
  - (6) A brief statement confirming that the applicant is financially secure to operate a family child care home for children. The Department shall not require any other specific or detailed financial disclosure.
  - (7) Evidence that the small family child care home contains a fire extinguisher and smoke detector device which meet standards established by the State Fire Marshal under Section 1597.45(d) of the Health and Safety Code or evidence that the large family child care home meets the standards established by the State Fire Marshal under Section 1597.46(d) of the Health and Safety Code.
  - (8) Pursuant to Section 102370(a), the fingerprints of any applicant for a family day care home license, and the following adults:
    - (A) Any person, other than a child, residing in the facility.
    - (B) Any person who provides care and supervision to the children.

**102369 APPLICATION FOR INITIAL LICENSE (Continued)****102369**

- (C) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with children in care shall be exempt.
- (D) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

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1. Section 1596.871(f) of the Health and Safety Code provides in part:  
  
No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section.
2. Section 1596.871(b)(2) of the Health and Safety Code provides in part:  
  
Any person, other than a child, residing in the facility.
3. Section 1596.871(c)(3) of the Health and Safety Code provides in part:  
  
Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision.

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- (9) Evidence of a current tuberculosis clearance, not more than one year prior to or seven days after initial presence in the home, for any adult in the home during the time that children are under care.
- (10) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction where the family day care home is located.

**102369 APPLICATION FOR INITIAL LICENSE (Continued)****102369**

- (c) Prior to filing an application, the applicant shall attend an orientation provided by the licensing agency.
- (1) The orientation shall cover, but not be limited to, the following areas:
- (A) Completion of the application for license.
- (B) Scope of operation subject to regulation by the Department.
- (d) Prior to granting a license to any individual to care for children, the Department shall check the Child Abuse Registry pursuant to Section 11170(b)(3) of the Penal Code. The Department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The Department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

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- (1) Section 1596.887 of the Health and Safety Code provides in part:
- (A) Prior to granting a license to any individual to or otherwise approving, any family day care home, the department shall check the child abuse and neglect complaint records of the child protective services agency of the county in which the applicant has resided for the two years preceding the application.
- (B) Prior to granting a license to or otherwise approving any individual to care for children in either a family day care home or a day care center, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code.
- (C) The department shall investigate any reports received from the Child Abuse Registry and investigate any information received from the county child protective services agency. However, child protective services agency information arising from a report designated as "unfounded," as defined pursuant to subdivision (a) of Section 11165.12 of the Penal Code, shall not be included in the investigation. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective services agency that investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry or based on child abuse and neglect complaint records of the county child protective services agency unless child abuse is substantiated.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.877, 1597.45, 1597.46, 1597.54, and 1597.57, Health and Safety Code.

**102370 CRIMINAL RECORD CLEARANCE 102370**

- (a) Subsequent to initial licensure, any person specified in Section 102369(b)(8) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the child day care facility.

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- (1) Section 1596.871(c)(2) of the Health and Safety Code provides in part:

These fingerprints shall be on a card provided by the California Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the California Department of Social Services for processing.

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- (b) If the applicant or registrant is unable to provide the statements required by Health and Safety Code Section 1597.52(b) and 1597.54(c), the license shall be denied, suspended or revoked. If the applicant or registrant has a record of conviction of a crime, other than a minor traffic violation, as determined in accordance with Health and Safety Code Section 1597.59(a), the license shall be suspended in accordance with Health and Safety Code Section 1597.52(b). The facility shall be ordered to cease and desist operation in accordance with Health and Safety Code Section 1528(d) and the Department may initiate other legal proceedings in accordance with Health and Safety Code Sections 1541 and/or 1543, or take other action as necessary including referral for criminal prosecution and/or civil proceedings.
- (c) The Department shall notify the licensee to act immediately to terminate the applicant's or registrant's employment, remove the applicant or registrant from the child care facility, or bar the applicant or registrant from entering the child care facility, if it is determined by the Department, on the basis of the fingerprints submitted to the Department of Justice, that the applicant or registrant has been convicted of the following offenses:

**102370 CRIMINAL RECORD CLEARANCE (Continued)****102370**

- (1) A sex offense against a minor; or
- (2) Sexual battery; or
  - (A) Touching an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, or
  - (B) Touching an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse.
- (3) Under circumstances or conditions likely to produce great bodily harm or death, willfully causing or permitting any child to suffer, or inflicting thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causing or permitting the person or health of such child to be injured, or willfully causing or permitting such child to be placed in such situation that its person or health is endangered; or
- (4) Willfully inflicting upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition; or
- (5) Under circumstances or conditions likely to produce great bodily harm or death, willfully causing or permitting any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicting thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causing or permitting the person or health of the elder or dependent adult to be injured, or willfully causing or permitting the elder or dependent adult to be placed in a situation such that his or her person or health is endangered; or

**102370 CRIMINAL RECORD CLEARANCE (Continued)****102370**

- (6) Under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causing or permitting any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicting thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causing or permitting the person or health of the elder or dependent adult to be injured or willfully causing or permitting the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered.
- (d) If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the Department, act immediately to either:
  - (1) Terminate the person's employment, remove and bar the person from the child care facility, or bar the person from entering the child care facility; or
  - (2) Seek an exemption pursuant to Section 1596.871(e) of the Health and Safety Code.

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- (A) Section 1596.871(c) of the Health and Safety Code provides in part:

Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

- (B) Section 1596.871(e) of the Health and Safety Code provides in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

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**102370 CRIMINAL RECORD CLEARANCE (Continued)****102370**

- (e) If the conviction was for another crime, except a minor traffic violation, the Department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.
- (f) For the purposes of compliance with this section, the Department shall permit an individual to transfer a current criminal records clearance, as defined in Section 1596.871(a) of the Health and Safety Code, from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

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- (1) Section 1596.871(h)(2) of the Health and Safety Code states:

The California Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1597.59, Health and Safety Code.

**102370.1 EXEMPTIONS TO CRIMINAL RECORD CLEARANCE REQUIREMENTS 102370.1**

- (a) If it is found that the applicant or any other person residing at or regularly in the home during the hours of care, has ever been convicted of a crime other than a minor traffic infraction as specified in Section 102370.1(b), the application for licensure shall be denied or the license shall be revoked, unless the following apply:
- (1) Such person has been granted a full and unconditional pardon for the offense, by the governor.
  - (2) After a review of the record, the Director determines that such a person is of such good character as to justify issuance of a license. Factors the Director may consider in justifying issuance of a license shall include, but are not limited to:
    - (A) The nature of the offense committed.
    - (B) Time elapsed since the offense committed, and the number of offenses.
    - (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
    - (D) Activities since conviction, such as employment, education, or participation in therapy, that would indicate rehabilitation.
    - (E) Character references.
    - (F) A Certificate of Rehabilitation from a Superior Court.
- (b) The applicant and each person specified in Section 102369(b)(8) has signed and submitted a statement under penalty of perjury that he or she has never been convicted of a crime other than a traffic infraction for which the fine does not exceed one hundred dollars (\$100).

**102370.1 EXEMPTIONS TO CRIMINAL RECORD CLEARANCE REQUIREMENTS 102370.1**  
(Continued)

- (c) No exemption shall be granted if the conviction was for an offense specified in Section 102370(b) or (c), or was a conviction of another crime against an individual as follows:
- (1) Murder or voluntary manslaughter.
  - (2) Mayhem.
  - (3) Rape as defined in Section 261(3) of the Penal Code.
  - (4) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
  - (5) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
  - (6) Lewd acts on a child under 14 as described in Section 288 of the Penal Code.
  - (7) Any felony Punishable by death or imprisonment in the state prison for life.
  - (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9 of the Penal Code on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461 of the Penal Code, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55 of the Penal Code.
  - (9) Any robbery perpetrated in an inhabited dwelling, house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in Section 12022(b) of the Penal Code, in the commission of that robbery.

**102370.1 EXEMPTIONS TO CRIMINAL RECORD CLEARANCE REQUIREMENTS 102370.1**  
(Continued)

- (10) Arson, in violation of Section 451(a) of the Penal Code.
- (11) The offense defined in Section 289(a) of the Penal Code where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- (12) Attempted murder.

NOTE: Authority cited: Sections 1596.81 and 1596.871, Health and Safety Code. Reference: Sections 1596.81(b) and 1597.59(b), Health and Safety Code; and Section 42001, Vehicle Code.

**102371 FIRE SAFETY CLEARANCE 102371**

- (a) A fire safety clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal shall be required for a large family child care home.
- (1) For purposes of Section 102371, "nonambulatory persons" includes the following persons who would be unable to leave a building unassisted under emergency conditions:
- (A) Any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger; and
- (B) Persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs.
- (2) The Director of Social Services or his/her designated representative, in consultation with the Director of Developmental Services or his/her designated representative, shall determine the ambulatory or nonambulatory status of persons with developmental disabilities.
- (3) The Director of Social Services or his/her designated representative shall determine the ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled.
- (b) A fire clearance shall not be required for a small family child care home.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.78, 1596.81(b), 1597.44, 1597.45, 1597.465, 13131, 13131.3 and 13143, Health and Safety Code.

**102383 TERM OF A LICENSE****102383**

- (a) Except as specified in Section 102368, a license remains in effect until it is:
- (1) Forfeited or surrendered as specified in Health and Safety Code Section 1596.858.
  - (2) Suspended or revoked as specified in Section 102393.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.858, Health and Safety Code.

**102384 APPLICATION/ANNUAL FEES****102384**

- (a) An applicant or licensee shall be charged a fee as specified in Health and Safety Code Section 1596.803:

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- (1) Health and Safety Code Section 1596.803 reads in pertinent part:

A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license to operate a child day care facility or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually. The amount of the fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

**Fee Schedule**

Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1 - 6	\$ 25	\$ 25
	7 - 12	\$ 50	\$ 50

- (2) A child day care facility may use a bona fide business or personal check to pay the license fee required under this section.
- (3) Failure to pay required license fees including the finding of insufficient funds to cover bona fide business or personal checks submitted for this purpose, shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.

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**HANDBOOK CONTINUES**

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**102384 APPLICATION/ANNUAL FEES**  
(Continued)**102384**

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**HANDBOOK CONTINUES**

- (4) The department shall assess the fees on an annual basis and may set time periods to spread the licensee's due dates throughout the year. The fee shall be considered delinquent 30 days after the billing date.

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- (b) When a licensee moves a facility from one location to another, the application fee shall be one-half of the original application amount for the capacity specified above.
- (1) To receive the reduced fee, the following shall apply:
- (A) The licensee has notified the Department of his/her intent to relocate the facility before actually relocating the facility.
- (B) The facility category remains the same when relocating the facility.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.803 and 1596.81, Health and Safety Code.

**Article 4. ENFORCEMENT PROVISIONS****102391 INSPECTION AUTHORITY****102391**

- (a) Any duly authorized officer, employee, or agent of the Department shall, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, the regulations adopted by the Department governing family child care homes, and in accordance with Section 102396.
- (b) The licensee shall permit the Department to inspect the family child care home, and to privately interview children or staff, to determine compliance with or to prevent violations of family child care laws or regulations. The Department shall exercise this authority during the home's normal business hours, or at any time family child care services are being provided at the home.
- (c) The licensee shall permit the Department to inspect any part of the family child care home in which family child care services are provided or to which children have access.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.852 and 1597.55, Health and Safety Code; and Rush v. Obledo, 756F.2d 713.

**102392 SITE VISITS****102392**

- (a) No site visits, or unannounced visits or spot checks to licensed family child care homes, shall be made except as follows:
  - (1) A site visit shall be required prior to the initial licensing of the applicant.
  - (2) The Department shall make an unannounced site visit on or before every third anniversary of the issuance of the license.
  - (3) The Department shall make an unannounced site visit on the basis of a complaint and a follow-up visit as provided in Section 1596.853 of the Health and Safety Code.
  - (4) In addition to any site visit or spot check authorized under this section, the Department shall annually make unannounced visits on 10 percent of all family child care homes for children licensed under this chapter. The unannounced visits may be made at any time.

**102392 SITE VISITS (Continued)****102392**

(5) An unannounced site visit shall adhere to both of the following conditions:

- (A) Visits shall take place only during normal business hours or at any time family child care services are being provided.
- (B) The inspection of the family child care home shall be limited to those parts of the home in which family child care services are provided or to which the children have access.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b), 1596.852, and 1597.55a, Health and Safety Code.

**102393 UNLICENSED FACILITY PENALTIES****102393**

(a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 102357 and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 102359.

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

(A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Section 102393(a)(1)(A) and (B).

**102393 UNLICENSED FACILITY PENALTIES (Continued)****102393**

- (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
  - (A) The \$200 per day penalty shall continue until the operator ceases operation.
- (c) If the unlicensed operator or his/her representative reports to the Department that unlicensed operation has ceased, the penalty shall cease as of the day the Department receives the notification.
  - (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
  - (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (e) The Department shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

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- (f) Repealed by Manual Letter No. CCL-92-08, effective 5/7/92.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.892, Health and Safety Code.

**102394 UNLICENSED FACILITY ADMINISTRATIVE APPEAL****102394**

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
  - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.80, 1596.891 and 1596.893, Health and Safety Code.

**Article 5. ADMINISTRATIVE ACTIONS****102401 DENIAL OF A LICENSE****102401**

- (a) When the requirements for licensure are not met, the Department shall deny the application within 30 days after receipt of a completed application.
- (b) The Department shall have the authority to deny an application for initial license, if the applicant has failed to pay any civil penalty assessments pursuant to Section 102393, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the Department have been made.
- (c) Immediately upon the denial of any application for a license, the Department shall notify the applicant in writing. Within 15 days after the Department mails the notice, the applicant may present his or her written petition for a hearing to the Department. Upon receipt by the Department of the petition, the petition shall be set for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (d) An application for licensure shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse, on his/her own child(ren).
  - (1) For the purposes of Section 102401(d), child abuse means a situation in which a child suffers from one or more of the following:
    - (A) Physical injury which is inflicted by other than accidental means on a child by another person.
    - (B) Sexual assault of a child or any act or omission described in Sections 102370(c)(4) and (5).
    - (C) Neglect of a child or abuse in out-of-home care.
    - (D) Serious physical injury inflicted upon the child by other than accidental means.
    - (E) Harm by reason of intentional neglect or malnutrition or sexual abuse.
    - (F) Going without necessary and basic physical care.

**102401 DENIAL OF A LICENSE (Continued) 102401**

- (G) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.
  - (H) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.
- (e) No limitation shall be imposed on the licensee or printed on the license solely on the basis of a written or oral admission by the licensee to the use of corporal punishment, not constituting child abuse pursuant to Section 102401(d)(1), on his/her own child(ren).

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1531.5, 1596.81(b), 1596.856, 1596.891 and 1597.59, Health and Safety Code.

**102402 REVOCATION OR SUSPENSION OF A LICENSE OR REGISTRATION 102402**

- (a) The Department shall have the authority to suspend or revoke any license for the following reasons:
- (1) Violation by the licensee of any of the laws, rules and regulations governing family child care homes.
  - (2) Aiding, abetting, or permitting the violation of any of the laws, rules and regulations governing family child care homes.
  - (3) Conduct in the operation or maintenance of a family day care home which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.
  - (4) The conviction of a licensee, or other person specified in Section 102369(b)(8), at any time during licensure, of a crime as defined in Sections 102370(b) and (c).
  - (5) Failure to comply with the requirements for training in preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, as specified in Health and Safety Code Section 1596.866.
- (b) The Director may temporarily suspend any license prior to any hearing when, in the opinion of the Director, the action is necessary to protect any child in a family child care home from physical or mental abuse, abandonment or any other substantial threat to health or safety.
- (c) The Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the provider with an accusation.
- (1) Upon receipt of a notice of defense to the accusation by the licensee, the Director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but no later than 30 days after receipt of the notice.

**102402      REVOCATION OR SUSPENSION OF A LICENSE OR REGISTRATION      102402**  
(Continued)

- (d) The temporary suspension shall remain in effect until such time as the hearing is completed and the Director has made a final determination on the merits.
- (1) The temporary suspension shall be deemed vacated if the Director fails to make a final determination of the merits within 30 days after the original hearing has been completed.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.885 and 1596.886, Health and Safety Code.

**102403      LICENSEE COMPLAINTS      102403**

- (a) Each licensee shall have the right, without prejudice or risk of discriminatory treatment by the Department, to bring to the attention of the Department any action or behavior by the departmental representative that he/she believes is a wrongful application of these regulations, or capricious enforcement of them.
- (b) The licensee shall have the right to complain to the Department regarding a review of any disputed issues.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1597.56, Health and Safety Code.

**Article 6. CONTINUING REQUIREMENTS****102416 PERSONNEL REQUIREMENTS****102416**

- (a) The licensee shall provide each employee with a copy of the Notice of Employee Rights (LIC 9052 (4/88)) form furnished by the Department.
  - (1) Each employee shall be requested to sign and date the notice form acknowledging receipt.
  - (2) A copy of the signed notice form shall be retained in the employee's personnel record.
  - (3) If the employee refuses to sign the notice form, a dated notation to that effect shall be retained in the employee's personnel record.
- (b) A claim by the employee alleging the violation by the licensee of Section 102416(a) shall be presented to the licensee within 45 days after the action as to which complaint is made and presented to the Division of Labor Standards Enforcement not later than 90 days after the action as to which complaint is made.
- (c) The licensee and other personnel as specified shall complete training on preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid, pursuant to Health and Safety Code Section 1596.866.

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- (1) Health and Safety Code Section 1596.866 provides in part:
  - (a) In addition to any other required training... each family day care home licensee who provides care shall have at least 15 hours of training on preventive health practices. The training shall include pediatric cardiopulmonary resuscitation, pediatric first aid, recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries. The training may include training on sanitary food handling, child nutrition, emergency preparedness and evacuation, caring for children with special needs, and identification and reporting of signs and symptoms of child abuse....
  - (b) ...a licensee of a large family day care home shall ensure that at least one person who has a current certificate in pediatric first aid and pediatric cardiopulmonary resuscitation shall be available at all times when children are present at the facility, or when children are off-site of the facility for facility activities....

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**102416 PERSONNEL REQUIREMENTS**  
(Continued)**102416**

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(d) Completion of the training required pursuant to subdivisions (a) and (b) shall be demonstrated, upon request of the licensing agency, by the following:

(1) A current pediatric cardiopulmonary resuscitation card issued either by the American Red Cross or the American Heart Association, or by a training program that has been approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(2) A current pediatric first aid card issued either by the American Red Cross or by a training program that has been approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(3) A certificate of completion of a course or courses in preventive health practices as defined in subdivision (a) or certified copies of transcripts that identify the number of hours and the specific course or courses taken for training in preventive health practices as defined in subdivision (a).

(e) The training required under subdivision (a) shall not be provided by a home study course. This training may be provided through on-the-job training, workshops, or classes....

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.866, 1596.880, 1596.881, and 1596.882, Health and Safety Code.

**102416.5 STAFFING RATIO AND CAPACITY 102416.5**

- (a) The capacity specified on the license shall be the maximum number of children for whom care can be provided.
- (b) For a small family child care home, the maximum number of children for whom care shall be provided, including children under age 10 who live in the licensee's home, shall be one of the following:
  - (1) Four infants; or
  - (2) Six children, no more than three of whom may be infants; or

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- (3) Health and Safety Code Section 1597.44 states:

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

- (A) At least two of the children are at least six years of age.
- (B) No more than two infants are cared for during any time when more than six children are cared for.
- (C) The licensee notifies each parent that the facility is caring for two additional schoolage children and that there may be up to seven or eight children in the home at one time.
- (D) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

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- (c) For a large family child care home, the maximum number of children for whom care shall be provided when there is an assistant provider in the home, including children under age 10 who live in the licensee's home and the assistant provider's children under age 10, shall be either:
  - (1) Twelve children, no more than four of whom may be infants; or

**102416.5 STAFFING RATIO AND CAPACITY 102416.5**  
(Continued)

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- (2) Health and Safety Code Section 1597.465 states:

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

- (A) At least two of the children are at least six years of age.
- (B) No more than three infants are cared for during any time when more than 12 children are being cared for.
- (C) The licensee notifies a parent that the facility is caring for two additional schoolage children and that there may be up to 13 or 14 children in the home at one time.
- (D) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

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NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.78, 1597.44, 1597.465, and 1597.57, Health and Safety Code.

**102417 OPERATION OF A FAMILY CHILD CARE HOME****102417**

- (a) The licensee shall be present in the home and shall ensure that children in care are supervised at all times. When circumstances require the licensee to be temporarily absent from the home, the licensee shall arrange for a substitute adult to care for and supervise the children during his/her absence. Temporary absences shall not exceed 20 percent of the hours that the facility is providing care per day.
- (b) The home shall be kept clean and orderly, with heating and ventilation for safety and comfort.
- (c) The home shall maintain telephone service.
- (d) The home shall provide safe toys, play equipment and materials.

**102417 OPERATION OF A FAMILY CHILD CARE HOME (Continued)****102417**

- (e) When a child shows signs of illness he/she shall be separated from other children and the nature of the illness determined. If it is a communicable disease he/she shall be separated from other children until the infectious stage is over.
- (f) If food is brought from the children's homes, the container shall be labeled with the child's name and properly stored or refrigerated.
- (g) The home shall be free from defects or conditions which might endanger a child. Safety precautions shall include but not be limited to:
  - (1) Fireplaces and open-face heaters shall be screened to prevent access by children. The home shall contain a fire extinguisher and smoke detector device which meet standards established by the State Fire Marshal.
  - (2) Gas heaters shall be properly vented and permanently installed.
  - (3) Where children less than five years old are in care, stairs shall be fenced or barricaded.
  - (4) Poisons, detergents, cleaning compounds, medicines, firearms and other items which could pose a danger if readily available to children shall be stored where they are inaccessible to children.
    - (A) Storage areas for poisons, firearms and other dangerous weapons shall be locked.
    - (B) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.
      - 1. Firing pins shall be stored and locked separately from firearms.
    - (C) Ammunition shall be stored and locked separately from firearms.

**102417 OPERATION OF A FAMILY CHILD CARE HOME (Continued)****102417**

- (5) All licensees shall ensure the inaccessibility of pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds and similar bodies of water through a pool cover or by surrounding the pool with a fence.
- (A) Fences shall be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self-close and have a self-latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.
1. If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fencing requirements specified in Section 102417(g)(5)(A) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall be required to meet these requirements.
- (B) Where an above-ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 102417(g)(5)(A).
- (6) Outdoor play areas shall be either fenced, or outdoor play areas shall be supervised by the licensee or care giver.
- (A) Outdoor play areas shall not include any area made inaccessible by fencing pursuant to Section 102417(g)(5).
- (B) Where natural or man-made hazards such as canals, cliffs, condemned buildings, creeks, ditches, lakes, ocean fronts, mines, power lines, quarries, rivers, ravines, swamps, watercourses, and areas subject to flooding lie on or adjacent to the facility premises, the outdoor play area shall be inaccessible to such hazards.
1. Where a fence or wall is used to make the outdoor play area inaccessible, the requirements of Section 102417(5)(A) shall be met.
- (7) An emergency information card shall be maintained for each child and shall include the child's full name, telephone number and location of a parent or other responsible adult to be contacted in an emergency, the name and telephone number of the child's physician and the parent's authorization for the licensee or registrant to consent to emergency medical care.

**102417 OPERATION OF A FAMILY CHILD CARE HOME (Continued)****102417**

- (8) Each family child care home shall have a current roster of children as specified in Health and Safety Code Section 1596.841.

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- (A) Health and Safety Code Section 1596.841 states:

Each child day care facility shall maintain a current roster of children who are provided care in the facility. The roster shall include the name, address, and daytime telephone number of the child's parent or guardian, and the name and telephone number of the child's physician. This roster shall be available to the licensing agency upon request.

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- (9) Each family child care home shall have a written disaster plan of action prepared on a form approved by the Department. All children, age and ability permitting, and the provider, the assistant provider, and other members of the household, shall be instructed in their duties under the disaster plan. As their age and ability permit, newly enrolled children shall be informed promptly of their duties as required in the plan.
- (A) Each family child care home shall conduct fire drills and disaster drills at least once every six months.
1. The licensee shall document the drills, including the date and time of each drill. This documentation shall be kept at the family child care home.
- (10) A baby walker shall not be allowed on the premises of a family child care home in accordance with Health and Safety Code Sections 1596.846(b) and (c).

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Health and Safety Code Sections 1596.846(b) and (c) state:

- (b) A baby walker shall not be kept or used on the premises of a child day care facility.
- (c) A "baby walker" means any article described in paragraph (4) of subdivision (a) of Section 1500.86 of Part 1500 of Title 16 of the Code of Federal Regulations.

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**102417 OPERATION OF A FAMILY CHILD CARE HOME (Continued)****102417**

- (h) Only drivers licensed for the type of vehicle to be operated shall be permitted to transport children in care.
- (i) The manufacturer's rated seating capacity of the vehicle shall not be exceeded.
- (j) Motor vehicles used to transport children in care shall be maintained in safe operating condition.
- (k) All vehicle occupants must be secured in an appropriate restraint system.
  - (1) Children shall not be left in parked vehicles.
- (l) When transporting infants in any motor vehicle, the licensee shall secure the infants in a car seat, designed for infants, which is secured in the vehicle in accordance with manufacturer's instructions.
- (m) The licensee or registrant shall maintain one of the following:
  - (1) Liability insurance kept in force covering injury to clients and guests in the amount of at least one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) in the total annual aggregate, sustained on account of the negligence of the licensee or its employees.
  - (2) A bond in the aggregate amount of three hundred thousand dollars (\$300,000).
  - (3) A file of affidavits signed by each parent with a child enrolled in the home. The affidavit shall state that the parent has been informed that the family child care home does not carry liability insurance or a bond according to standards established by the state.
    - (A) If the provider does not own the premises used as the family child care home, the affidavit shall also state that the parent has been informed that the liability insurance, if any, of the owner of the property or the homeowners' association, as appropriate, may not provide coverage for losses arising out of, or in connection with, the operation of the family child care home, except to the extent that the losses are caused by, or result from, an act or omission by the owner of the property or the homeowners' association, for which the owner of the property or the homeowners' association would otherwise be liable under the law.
    - (B) These affidavits shall be on a form provided by the Department and shall be reviewed at each licensing inspection.
    - (C) For purposes of Sections 102417(m) and (n), "homeowners' association" is an association of a common interest development, as defined in Section 1351 of the Civil Code.

**102417 OPERATION OF A FAMILY CHILD CARE HOME (Continued)****102417**

- (n) A family child care home that maintains liability insurance or a bond pursuant to Section 102417(m)(1) or (2), and that provides care in premises that are rented or leased or uses premises which share common space governed by a homeowners' association, shall name the owner of the property or the homeowners' association, as appropriate, as an additional insured party on the liability insurance policy or bond if all of the following conditions are met:
- (1) The owner of the property or governing body of the homeowners' association makes a written request to be added as an additional insured party.
  - (2) The addition of the owner of the property or the homeowners' association does not result in cancellation or nonrenewal of the insurance policy or bond carried by the family day care home.
  - (3) Any additional premium assessed for this coverage is paid by the owner of the property or the homeowners' association.
- (o) The licensee shall maintain proof of control of property at the family child care home for review by the Department.
- (1) If the licensee owns or is buying the home, this is a copy of the property deed, the property tax statement, or a payment coupon from the mortgage company or bank.
  - (2) If the licensee is operating on rented or leased property, this is a copy of the rental agreement or lease.
- (p) A licensee who operates on rented or leased property, and who wishes to increase the capacity of the family child care home as specified in Section 102416.5(b)(3) or Section 102416.5(c)(1), shall obtain the written consent of the property owner/landlord to increase the home's capacity to eight or 14 children.
- (1) The original of the completed and signed consent form shall be attached to the family child care home's license and kept on file in the home.
- (q) A signed and dated copy of LIC 9052 (4/88), Notice of Employee Rights, shall be maintained in the employee's personnel record.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.78, 1596.81(b), 1596.841, 1596.846(b) and (c), 1596.880, 1596.881, 1596.882, 1597.30, 1597.44, 1597.45, 1597.46, 1597.465, 1597.531, and 1597.54(b)(2), Health and Safety Code.

**102418 IMMUNIZATIONS****102418**

- (a) Prior to admission to a family day care home, children shall be immunized against diseases as required by the California Code of Regulations, Title 17, beginning with Section 6000.

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- (b) California Code of Regulations, Title 17, Sections 6000 and 6015, reads in pertinent part as follows:

"Admission" means a pupil's first entry in a family day care home. "Admission" also denotes a pupil's re-entry after withdrawing from a previous enrollment.

"Pupil" means a person under age 18 years admitted to or seeking admission to any family day care home.

- (c) California Code of Regulations, Title 17, Section 6020, as summarized, requires that children receive vaccines as follows:

**AGE WHEN ENROLLING****IMMUNIZATIONS (SHOTS) NEEDED**

2 - 3 months

1 each of Polio, DTP, Hib, Hep B

4 - 5 months

2 each of Polio, DTP, Hib, Hep B

6 - 14 months

3 DTP

2 each of Polio, Hib and Hep B

15 - 17 months

3 each of Polio and DTP

2 Hep B

1 MMR; must be on or after the first birthday

At least 1 Hib given on or after the first birthday  
(regardless of any doses given before the first birthday)

18 months - 5 years

3 each of Polio and Hep B

4 DTP

1 MMR; must be on or after the first birthday

At least 1 Hib given on or after the first birthday  
(regardless of any doses given before the first birthday)

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**HANDBOOK CONTINUES**

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**102418 IMMUNIZATIONS**  
(Continued)**102418****HANDBOOK CONTINUES**

DTP: Diphtheria, tetanus and pertussis combined vaccine. Record may show DTP, DT, or DTaP.

Hib: Haemophilus influenzae type B vaccine; not required for children older than 4-1/2 years of age.

MMR: Measles, mumps and rubella combined vaccine.

Hep B: Hepatitis B

- (d) California Code of Regulations, Title 17, Section 6035(a), as summarized, requires that:

You may admit a child who lacks documentation of having received all the shots required in Section 6020, and who does not have a permanent medical exemption or personal beliefs exemption to immunization in accordance with Section 6051, if:

He or she has not received all the shots required for his or her age group and he or she has started receiving doses of all required vaccines as follows:

**WHEN NEXT SHOTS ARE DUE**

Polio #2	2 months after first dose
Polio #3	2-12 months after 2nd dose
DTP #2 and #3	2 months after previous dose
Hib #2	2 months after first dose
DTP #4	6-12 months after previous dose
Hep B #2	1-2 months after first dose
Hep B #3	Under age 18 months: 2-12 months after 2nd dose. Age 18 months and older: 2-6 months after 2nd dose.

**HANDBOOK ENDS HERE**

- (e) The licensee shall be permitted to exempt a child from this requirement provided that one of the following requirements is met and the documentation is kept in the child's file:

- (1) A physician provides a written statement that an immunization(s) should not be given to the child and specifies how long this exemption is expected to be needed.

**102418 IMMUNIZATIONS**  
(Continued)**102418**

- (2) The parents or guardians sign and date the back of the California School Immunization Record, PM 286 (6/95), which is also used for family day care homes, under the "Personal Beliefs Affidavit."
- (f) As required by the California Code of Regulations, Title 17, Section 6035(b), a child who does not meet any of the requirements in Sections 102418(c), (d), or (e), shall not be admitted to a family day care home.
- (g) The licensee shall document each child's immunizations as required by the California Code of Regulations, Title 17, Section 6070, and shall maintain such documentation for as long as the child is enrolled.
  - (1) This requirement includes updating each child's PM 286 (6/95) when the child is due to receive required immunizations after enrollment in the family day care home.

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**HANDBOOK BEGINS HERE**

- (h) California Code of Regulations, Title 17, Section 6070, specifies in pertinent part that:
  - (1) The family day care home shall record each pupil's immunization on the California School Immunization Record, PM 286 (6/95).
- (i) California Code of Regulations, Title 17, Section 6075, specifies in pertinent part that each family day care home licensee report annually to the Department of Health Services as follows:
  - (1) The family day care home shall file a report with the state and local health departments on the immunization status of new entrants annually or when needed to determine immunization status such as during an epidemic or potential epidemic. The form to be used for this report is:
    - (A) Family day care homes: ANNUAL FAMILY DAY CARE HOME IMMUNIZATION SURVEY [DHS 8529 (1/96)].

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**HANDBOOK ENDS HERE**

- (j) The licensee shall not be required to document immunizations of children also enrolled in a public or private elementary school.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.81, 1596.813, 1597.05, 1597.541, and 120325 - 120380, Health and Safety Code; Sections 6000-6075, California Code of Regulations, Title 17.

**102419 ADMISSION PROCEDURES****102419**

- (a) The licensee shall inform authorized representatives of children in care of their right to enter and inspect the family child care home.
  - (1) At the time of acceptance of each child into care, the licensee shall provide the child's authorized representative with a copy of the notice form furnished by the Department of the right to make an inspection.
  - (2) The licensee shall request the child's authorized representative to sign and date the bottom portion of the notice form, which acknowledges that the authorized representative has received and read the notice.
  - (3) A copy of the notice form shall be posted in a prominent, publicly accessible area in the family child care home.
- (b) Upon presenting identification, the responsible authorized representative of a child in care has the right to enter and inspect the family child care home without advance notice during the home's normal operating hours.
  - (1) When inspecting the home, authorized representatives shall be respectful of the children's routines and programmed activities.
- (c) No family child care home shall discriminate or retaliate against any child or any child's authorized representative because the authorized representative has exercised his or her right to inspect the home or has lodged a complaint with the Department against a home.

**102419**      **ADMISSION PROCEDURES** (Continued)**102419**

- (1) If any family child care home denies an authorized representative the right to enter and inspect a home or retaliates, the Department shall issue the home a warning citation.
- (2) For any subsequent violation of this right, the Department shall take appropriate action including, but not limited to, license revocation and imposition of a civil penalty upon the home of fifty dollars (\$50) per violation.
- (3) The person present who is in charge of the family child care home shall determine whether to deny access to the following:
  - (A) An adult whose behavior presents a risk to children present in the home; and
  - (B) Noncustodial parents or guardians if so requested by the child's responsible authorized representative.
- (d) If a child's authorized representative refuses to sign the notice form, a dated notation to that effect, containing the authorized representative's name and telephone number, shall be kept in the child's record.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.857, 1596.872 and 1597.30, Health and Safety Code.

**102421 CHILD'S RECORDS****102421**

- (a) The licensee shall maintain, in each child's record, the signed and dated notice form required in Section 102419(a)(2).
- (1) The licensee shall keep the signed and dated notice form for at least three years following termination of service to the child.
- (b) The licensee shall maintain, in each child's record, a copy of the emergency information card required in Section 102417(g)(7).
- (c) In any case in which a family child care home releases a minor to a peace officer pursuant to Section 305 of the Welfare and Institutions Code, the licensee shall provide the peace officer with the address and telephone number of the minor's authorized representative in order to enable the peace officer to make the notification required by Section 308 of the Welfare and Institutions Code.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.72, 1596.73, 1596.857, 1596.872, 1596.876 and 1597.30, Health and Safety Code.

**102423 PERSONAL RIGHTS****102423**

- (a) Each child receiving services from a family child care home shall have certain rights that shall not be waived or abridged by the licensee regardless of consent or authorization from the child's authorized representative. These rights include, but are not limited to, the following:
- (1) To be treated with dignity in his/her personal relationship with staff and other persons.
- (2) To receive safe, healthful, and comfortable accommodations, furnishings, and equipment.
- (3) To have parents or guardians informed by the licensee of the provisions of the law regarding complaints and the procedures for registering complaints confidentially, including, but not limited to the address and telephone number of the licensing agency's complaint unit.
- (4) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including, but not limited to: interference with eating, sleeping or toileting; or withholding shelter, clothing, medication or aids to physical functioning.
- (b) The licensee shall give authorized representatives of children in care a consumer education and awareness handout. The Department shall provide this handout and distribute it to licensees.

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Sections 1596.81(b) and 1597.30, Health and Safety Code.

**102424 SMOKING PROHIBITION****102424**

- (a) Smoking is prohibited on the premises of a family child care home as specified in Health and Safety Code Section 1596.795(a).

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**HANDBOOK BEGINS HERE**

- (1) Health and Safety Code Section 1596.795(a) states:

The smoking of tobacco in a private residence that is licensed as a family child care home shall be prohibited during the hours of operation as a family day care home and in those areas of the family day care home where children are present. Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to smoking in a family day care home if the ordinance is more stringent than this section.

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**HANDBOOK ENDS HERE**

NOTE: Authority cited: Section 1596.81, Health and Safety Code. Reference: Section 1596.795(a), Health and Safety Code.

**Article 7. PHYSICAL ENVIRONMENT (Reserved)**